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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/829,717	04/10/2001	Bernd Schweikart	01-248	8440

7590

06/25/2003

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EXAMINER

LORENGO, JERRY A

ART UNIT

PAPER NUMBER

1734

3

DATE MAILED: 06/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application N .

09/829,717

Applicant(s)

SCHWEIKART, BERND

Examiner

Jerry A. Lorengo

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-- The MAILING DATE of this communication appears in the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 April 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 3-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 3-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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## DETAILED ACTION

(1)

### *Priority*

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

(2)

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over EP 484,235 to Pellerin et al. in view of DE 19637318 to Schachtshabel.

Regarding applicant claim 15, Pellerin et al. disclose a method of producing a window section comprising the steps of:

- (1) Providing an elongated section 1;
- (2) Profiling the elongated section 1 with a glass rebate groove 4 at a second groove/channel 16 having a visible surface of the elongated section formed between the groove 4 and groove/channel 16 (abstract; Figures 1 and 3) and
- (3) Covering the visible surface with a covering layer (cladding) 9. The window section of Pellerin et al. is illustrated below:

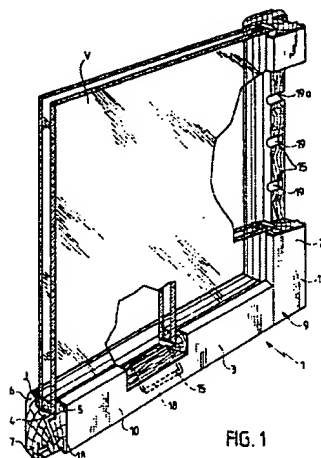


FIG. 1

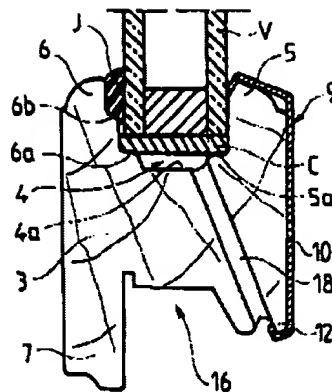


FIG. 3

Although Pellerin et al. do not specifically disclose that the second groove 16 comprises a gear channel, it would have been obvious to one of ordinary skill in the art at the time of invention to provide the window section of Pellerin et al. with a gear channel in place of or associated with groove 16 motivated by the fact that Schachtshabel, also drawn to profiled window sections having a glass groove (into which glass section 8 is located) and a second groove 10, discloses that the second groove may be profiled in such a manner as to provide space into which a gear mechanism 14 may be placed (Figure 1, abstract). The window section of Schachtshabel is illustrated below:

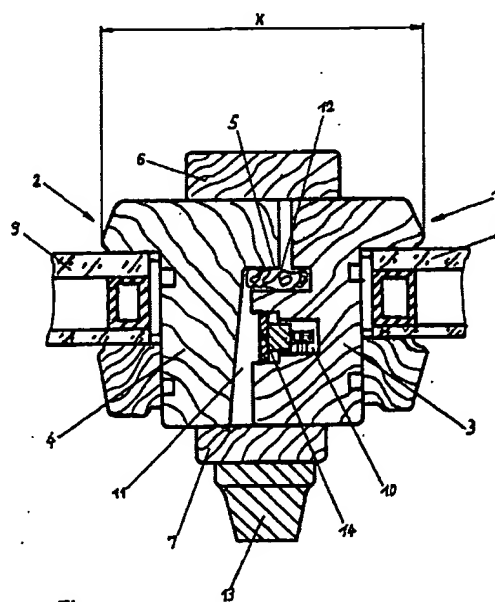


Fig.

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(3)

Claims 16, 17 and 3-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as combined in section (2), above, in further view of U.S. Patent No. 3,994,087 to Koeppen.

Although Pellerin et al. and Schachtshabel disclose a method of forming an elongated window section having a glass rebate and gear channel with a visible surface covered by a covering layer, they do not specifically disclose, as per applicant claims 16, 17 and 7, that a plurality of window sections are produced by profiling a single length followed by bevel cutting to form each of the window sections, i.e., the sash and frame sections.

Koeppen, however, also drawn to method of forming grooved frame sections having a covering layer, discloses a method of making a frame member comprising the steps of:

- (1) Providing an elongate wooden member 2;
- (2) Laminating a vinyl facing (sheathing) material 1 to all outside surfaces of the wooden member 2;
- (3) Profiling the elongate wooden member 2, as per applicant claim 17, with grooves 3 and 4;
- (4) Cutting mitres 5 into the wooden member 2 to produce, as per applicant claims 7 and 16, individual frame sections; and
- (5) Applying glue to each mitre cut 5 to securely hold the wooden member 2 in the form of a frame (Figures 1-4; column 1, line 7 to column 2, lines 22).

It would therefore have been obvious to one of ordinary skill in the art at the time of invention to form the window sections resulting from the combination of Pellerin et al. and Schachtshabel in the method taught by Koeppen motivated by the fact that the method of Koeppen enables a plurality of grooved frame sections to be formed simultaneously which would represent a higher level of efficiency as compared to forming a plurality of frame blanks followed by grooving a mitre cutting to form the plurality of profile window sections.

Regarding applicant claims 3-5, the vinyl sheathing 1 of Koeppen comprises a plastic provided at the visible surfaces of the wood member 2. Although neither he nor Pellerin et al. specifically disclose that the covering material is attached via an adhesive, it would have been obvious to one of ordinary skill in the art at the time of invention to utilize an adhesive motivated

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by the fact that lamination is generally understood to utilize an adhesive or glue to maintain contact between the lamina.

Although neither Pellerin et al. nor Koeppen specifically disclose that a protective film is applied to the covering material, as per applicant claim 6, it would have been obvious to one of ordinary skill in the art at the time of invention to do so motivated by the fact that protective coatings are well known in the art and used to provide abrasion resistance to underlying decorative substrates.

The references combined above disclose a method of forming window sections comprising the steps of: providing an elongate wooden member; laminating a plastic sheathing material to all outside (visible) surfaces of the wooden member; profiling the elongate wooden member with grooves; cutting mitres into the wooden member to produce individual frame sections; and applying glue to each mitre cut to securely hold the wooden member in the form of a frame. Although Koeppen discloses applying glue to the mitre (bevel) cuts to secure the frame, they do not specifically disclose, as per applicant claims 8-14, the use of dovetails, dowel holes, dowel pins and connecting elements to secure the mitred (beveled) section secure.

Nonetheless, it would have been obvious to one of ordinary skill in the art at the time of invention to do so motivated by the fact that dowels, dowel holes, dovetails, cam locks, bolts and cooperating connecting elements alone or in combination are well known in the art and the skilled artisan would have appreciated that their use would provide increased strength over a glued joint alone. Furthermore, the placement of the dowel holes perpendicular to the face of the mitre (bevel) cut for subsequent occupation by wooden dowels is a well-known method of wood joinery.

(4)

***Response to Amendments and Arguments***

In response to the amendments filed April 28, 2003, a new grounds of rejection has been set forth in sections (1) and (2), above. Applicant's arguments with respect to original claims 1-14 have been considered but are moot in view of the new ground(s) of rejection.

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(5)

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

(6)

Applicant is encouraged to **FAX After Final Amendments** (37 CFR 1.116) to expedite delivery to the Examiner. The Group 1734 Facsimile number is **(703) 872-9311**. A duplicate mailed copy of the facsimile transmission is **not required** and will only serve to delay the processing of your application.

If the applicant prefers to mail in After Final correspondence it is highly recommended that such be mailed to **BOX AF** which will also facilitate processing from the mailroom and within Group 1700.

(7)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerry A. Lorengo whose telephone number is (703) 306-9172. The examiner can normally be reached on Monday through Friday, 8:30 A.M. to 5:00 P.M.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (703) 308-3853. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7115 for regular communications and (703) 872-9311 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



J.A. Lorengo  
Primary Examiner  
AU 1734  
June 1, 2003